

SENATOR CLARK PRESIDING

SENATOR CLARK: We will now take up LB 120. Senator Burrow's bill. The Clerk will read.

CLERK: Read title.

SENATOR CLARK: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, I move the advancement of LB 120. LB 120 provides for the recovery of attorney fees should an individual prevail in a mandamus action against a public official or a political subdivision. Mandamus means to demand. When a mandamus action is filed it is a request for a court to determine if an official or a political subdivision is properly discharging its legal duty. Should the court find that if such duty is not being met it will issue a writ of mandamus directing such political subdivision or official to fulfill its obligation. Currently any citizen who prevails must pay his own attorney fees. Under LB 120, a citizen would be permitted to recover reasonable attorney fees if he wins such a suit. The issuance of such a writ would indicate that the government is not complying with the law, hence a private citizen should not bear the cost of such an action. It is important to remember that under this proposal an individual can recover attorney fees only if he proves that a public official or political subdivision is not fulfilling its legal duties and obligations. Equity would dictate that one should recover attorney fees. I think the real need of this would come when in certain instances subdivisions have ignored the law flatly and openly on payment of small amounts, I think are one of the big criteria where an individual can not afford presently to force compliance with the law. We had some circumstances where sheriffs were owed money by the counties, spelled out already in law as to paying jail fees and so forth and the county officials in a few instances have found that situation to their advantage where attorney fees are not allowed and it could cost more in attorney fees to collect the money than an individual would receive in the case of the suit. This allows reasonable attorney fees when the individual wins and only when he wins. If there are any questions, I'd be glad to answer. Thank you.

SENATOR CLARK: Senator Vard Johnson, talking on attorneys fees.

SENATOR V. JOHNSON: I have a simple question of Senator Burrows and that is this, Senator Burrows, if you would yield.